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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,568	02/15/2005	Ulrich Waibel	N0484.70056US00	1140
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EXAMINER				
CHOY, PAN G				
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3624				
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06/10/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/524,568

**Applicant(s)**

WAIBEL, ULRICH

**Examiner**

PAN CHOY

**Art Unit**

3624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-11, 13-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11, 13-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date 18 February 2010
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following is a non-final office action in response to communications received on February 26, 2010. Claims 1, 4, 8 and 11 have been amended; Claims 2, 12, and 17 have been cancelled; and claims 21-23 have been added.

Claims 1, 3-11, 13-16 and 18-23 are pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 26, 2010 has been entered.

### ***Information Disclosure Statement***

3. The examiner has reviewed the patents and articles supplied in the Information Disclosure Statements (IDS) provided on February 18, 2010.

***Response to Amendment***

4. The 35 U.S.C. § 112 rejection in the previous office action is withdrawn in response to Applicant's Remarks.

***Response to Arguments***

5. Applicant's arguments filed on 02/26/2010 have been fully considered but they are not persuasive.

6. In the Remarks on the last paragraph of pages 8 and 9, Applicant argues that "The combination of Archbold, Barton, and Uchino is Improper" because Archbold is teaching a system for routing transcription jobs, Uchino is teaching a system for organizing an online forum or message board, and Barton is teaching a career management system to facilitate searching for candidates to fill a job.

Applicant's arguments regarding the references of Uchino and Barton are moot in view of the new ground(s) of rejection.

7. In the Remarks on page 9, Applicant argues that the reference of Uchino fails to disclose "the transcription job classification being based, at least in part, on an author of the recorded dictation".

Applicant's arguments regarding the reference of Uchino are moot in view of the new reference of Sweet. Sweet in an analogous art "Digital Dictation System with Voice Mail Capability" teaches assigning a particular dictation job or dictation jobs to a

particular transcriber based on their characteristics in the transcriptionist's pool, and it allows the Supervisor to specify criteria to be used to divide dictation jobs into categories for assignment for transcription (see col. 9, lines 5-7). The displayed job records will be displayed in accordance with sorting criteria based on a primary attribute and a secondary attribute. For example, the Supervisor may request display of job records for the department having a typing length within a given range and sorted primarily by author identifier (see col. 6, lines 18-25).

8. In the Remarks on pages 10 and 11, Applicant argues regarding claims 1 and 11 that Barton fails to disclose or suggest "creating a list of suitable persons ranked according to each person's suitability and/or availability to perform a transcription job based, at least in part, on the stored personal parameters including the person's experience transcribing prior dictations by the author and/or the person's familiarity with a specialist field associated with the content of the recorded dictation, and based, at least in part, on the transcription job classification".

Applicant's arguments regarding the reference of Barton are moot in view of the new reference of Chintalapati. Chintalapati in an analogous art "System for Transcribing Dictation" teaches "A seamless workflow solution for medical, legal and other transcription needs. Spool a particular dictation to particular client computer based on a spooling algorithm. The spooling algorithm may be configured to rank a plurality of transcriptionists based on a total number of transcriptions each transcriptionist has

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completed for an author of a dictation to be transcribed, and spool the dictation to transcriptionist having the highest rank for the author (see ¶¶ 18-20).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. § 103(a) with forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 5, 7-11, 18-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archbold, (U.S. Pat. No.: 7,031,998 B2), and in view of Sweet et al., (hereinafter: "Sweet"), (U.S. Pat. No.: 5163085), and in further view of Chintalapati et al., (hereinafter: Chintalapati), (U.S. Pub. No.: 2003/0046350 A1).

**Regarding Claim 1**, Archbold discloses a system for the automatic routing of transcription jobs to persons who will undertake the jobs by transcribing recorded dictations (see col. 1, lines 34-35: *the system including automated assignment of jobs to widely-scattered individual Scribes*), the system comprising:

means for storing (see col. 2, lines 18-22: *a plurality of Mail-Boxes for storing input; computer system for keeping and updating databases used to process jobs and*

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*for keeping and updating statistical records of jobs)* personal parameters of persons who may potentially be assigned to perform the transcription job (see col. 4, lines 6-9: *information about Scribes*);

means for automatically forwarding the transcription job to the selected person (see col. 6, line 67 to col. 20, line 2: *automatically forwards job step data to a selected scribe*);

Archbold further discloses "determining the type (*i.e. class, category, and group*) of dictation jobs" (see col. 12, lines 65-66);

Archbold does not specifically disclose classifying a transcription job for a recorded dictation to be routed when a job request arrives to provide a transcription job classification, the transcription job classification being based, at least in part, on an author of the recorded dictation, a form of transmission of the recorded dictation and/or content of the recorded dictation; however, Sweet discloses classifying a transcription job for a recorded dictation to be routed when a job request arrives to provide a transcription job classification (see col. 9, lines 5-7: *it allows the Supervisor to specify criteria to be used to divide Dictation Jobs into categories for assignment for transcription*), the transcription job classification being based, at least in part, on an author of the recorded dictation, a form of transmission of the recorded dictation and/or content of the recorded dictation (see col. 6, lines 18-25: *The displayed job records will be displayed in accordance with sorting criteria based on a primary attribute and a secondary attribute. For example, the Supervisor may request display of job records for the department having a typing length within a given range and sorted primarily by*

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*author identifier in ascending order and secondarily by subject (content) identifier in descending order*). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature as taught by Sweet to categorize the jobs and sort the jobs in some fashion for displaying in the system of Archbold, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Archbold and Sweet do not specifically disclose:

means for creating a list of suitable persons ranked according to each person's suitability and/or availability to perform the transcription job based, at least in part, on the stored personal parameters including the person's experience transcribing prior dictations by the author and/or the person's familiarity with a specialist field associated with the content of the recorded dictation, and based, at least in part, on the transcription job classification, and

means for automatically selecting a person based, at least in part, on the person's ranking in the list.

However, Chintalapati discloses creating a list of suitable persons ranked according to each person's suitability and/or availability to perform the transcription job based, at least in part, on the stored personal parameters including the person's experience transcribing prior dictations by the author and/or the person's familiarity with



a specialist field associated with the content of the recorded dictation, and based, at least in part, on the transcription job classification (see ¶ 35: assigns these voice jobs to the most capable transcriptionists based on certain predetermined criteria; ¶ 19: *rank a plurality of transcriptionists based on a total number transcriptions each transcriptionist has completed for an author of a dictation*; ¶ 20: *rank a plurality of transcriptionists based on each transcriptionist's quality of past transcription(s) for an author of a dictation*; and ¶ 38: *build the transcriptionist profile over time to be used against assigning the jobs to the transcriptions in the future*; see also claim 10 and 11);

Further, Chintalapati discloses selecting a person based, at least in part, on the person's ranking in the list (see ¶¶ 19 and 20: *spool the dictation to be transcribed to the transcriptionist having the highest rank for the author*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Chintalapati to creating a list of transcriptionists ranked by their experience and quality of past transcription(s) for the author, and select a transcriptionist with the highest rank from the list in the system of Archbold and in view of Sweet, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Regarding Claim 5**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above. Archbold further discloses

means for recording information concerning the current workloading of the individual persons, and wherein the means for automatically selecting the person from the list is based, at least in part, on the information concerning the current workloading (see col. 15, lines 55-59: *Assigned Scribes at the higher level of work periodically when their work load permits them to do so, and updates their Scribe Record with the information that they are a Provisional Scribe at the higher level*).

**Regarding Claim 7**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above. Archbold further discloses multiple workstations with means for processing information made available in electronic form, the multiple workstations useable by at least one of the persons who may potentially be assigned to the transcription job to perform the transcription (see col. line 16: *a MOM computer being associated with a plurality of HOME computers (workstations)*); and col. 2, lines 14-40: *means for receiving job packet, selecting Scribes, and generating Electronic Worker Messages in the form of E-main and voicemail to specified User for information or action*).

**Regarding Claim 8**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above. Archbold further discloses voice recognition means for automatically recognizing the recorded dictation to generate a text file from the recorded dictation (see col. 14, line 63 – col. 15, line 2: *use a software speaker-independent voice-recognition command system*; and col. 4, lines 36-37: *The final transcribed product may then be written out to a file, database and/or*

*printed*), and wherein transcribing the recorded dictation includes correcting at least one error in the text file (see col. 16, lines 44-50: *The processor checks for "grammar" completeness and use in the statements and for complete option paths in the table rules for catch clerical error*; and col. 7, lines 60-61: *After the correction is made, the transcribed file is uploaded to the Scribe's Out-Box*).

**Regarding Claim 9**, Archbold does not specifically disclose wherein the means for classifying the transcription job comprises a means for classifying the transcription job based, at least in part, on a specialist field of the content of the recorded dictation; however, Archbold discloses classifying the transcription job based on a specialist field by "assigned jobs by the system depending on the availability of qualified Scribes" (col. 3, lines 49-50); "Scribes work in a particular subject area, for example, an attorney can dictate a memory regarding a personal injury case, and a radiologist can dictate her review of an X-ray" (col. 4, lines 4-37). It would have been obvious to one of ordinary skill in the art at the time of the invention to include classifying the transcription job based on a specialist field in the system of Archbold, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Regarding Claim 10**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above. Sweet further discloses wherein the means for classifying the transcription job comprise means for classifying

the transcription job based, at least in part, on author of the recorded dictation (see col. 9, lines 5-7: *it allows the Supervisor to specify criteria to be used to divide Dictation Jobs into categories for assignment for transcription*; and col. 6, lines 18-25: *the job records will be displayed in accordance with sorting criteria based on a primary attribute and a secondary attribute. For example, the Supervisor may request display of job records for the department having a typing length within a given range and sorted primarily by author identifier in ascending order and secondarily by subject (content identifier in descending order).*

**Regarding Claim 11**, Archbold discloses at least one computer readable storage medium having instructions stored thereon that (see col. 3, lines 27-35: *provides a machine readable medium comprising programming instructions*), when executable executed by at least one processor, perform a method for automatically routing transcription, jobs of to persons who undertake the jobs by transcribing recorded dictations, the method comprising:

Claim 11 recites similar limitations to Claim 1 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 1.

**Regarding Claim 18**, Claim 18 recites similar limitations to Claim 8 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 8.

**Regarding Claim 19**, Claim 19 recites similar limitations to Claim 9 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 9.

**Regarding Claim 20**, Claim 20 recites similar limitations to Claim 10 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 10.

**Regarding Claim 21**, Claim 21 recites similar limitations to Claim 1 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 1.

**Regarding Claim 23**, Claim 23 recites similar limitations to Claim 8 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 8.

11. Claims 3, 4, 6, 13-16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archbold, in view of Sweet and Chintalapati as applied to claim 1 above, and in further view of Frankel, (U.S. Pat. No.: 6151531).

**Regarding Claim 3**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above.

Archbold, Sweet and Chintalapati do not specifically disclose wherein the personal parameters include efficiency information indicative of how efficient a

respective person is in performing transcription for jobs in the transcription job classification and working information indicative of whether the respective person is available to perform the transcription.

However, Frankel discloses wherein the personal parameters include efficiency information indicative of how efficient a respective person is in performing transcription for jobs in the transcription job classification and working information indicative of whether the respective person is available to perform the transcription (see col. 3, lines 30-33: *various other items of information that enable the data processing system to determine factors such as worker efficiency*; and col. 4, lines 15-17: *it is further desirable to know the workload against available labor before work is sent to process*). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Frankel in the system of Archbold, in view of Sweet and Chintalapati, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Regarding Claim 4**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above.

Chintalapati further discloses wherein the list of suitable persons is ranked according to the efficiency information, and wherein the means for automatically selecting the person includes means for selecting a highest ranked person on the list that is available to perform the transcription based, at least in part, on the working

information (see ¶ 20: *rank a plurality of transcriptionists based on each transcriptionist's quality of past transcription(s) for an author of a dictation; and ¶¶ 19 and 20: spool the dictation to be transcribed to the transcriptionist having the highest rank for the author*).

**Regarding Claim 6**, Archbold in view of Sweet, and further in view of Chintalapati discloses all the limitations as described above.

Archbold further discloses means for monitoring the selected person during transcription of the recorded dictation to obtain updated efficiency information for each job undertaken by the person (see Abstract: *The system may include a "SUPERMOM" directs and transfers job data, receives job record updates and maintains a site for on-line internet job tracking; and col. 19, lines 34-39: Job Transaction record allows the record to support many functions, tracking royalties, making a basis for analysis of efficiency*).

**Regarding Claim 13**, Claim 13 recites similar limitations to Claim 3 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 3.

**Regarding Claim 14**, Claim 14 recites similar limitations to Claim 4 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 4.

**Regarding Claim 15**, Claim 15 recites similar limitations to Claim 5 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 5.

**Regarding Claim 16**, Claim 16 recites similar limitations to Claim 6 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 6.

**Regarding Claim 22**, Claim 22 recites similar limitations to Claim 3 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 3.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclose.

- Yuri et al., (U.S. Pat. No.: 6249715) discloses a method and apparatus for optimizing work distribution. A level is set for each task to be performed and a skill level is set for each worker. A time variation factor is set based upon the ranked work difficulty and the skill level of the workers.
- Kahn et al., (U.S. Pat. No.: 6122614) discloses a system for substantially automating transcription services for multiple voice users including a manual transcription station, a speech recognition program and a routing program.



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- Brodersen et al., (U.S. Pat. No.: 6850895) discloses a method, a product, and a system for assigning resources to tasks in a rule based which are "Best Fit", "Random Fit" or "Mandatory Fit", with ranking of employees by weighted rankings, flexible scoring, minimum or threshold scores.
- Andino et al., (U.S. Pub. No.: 20030105642) discloses a system for selection of individuals from a pool of candidates filtered by qualification, eligibility, and other standards.
- "A multiattribute Approach to General Flowshop Problems", by Reza Ramezani Khorshid-Doust, Department of Systems Engineering, Case Western Reserve University, August 1991. Discloses a method for developing a new formulation by use of multiattribute alternative ranking, and assigning job to the highest rank as determined by the corresponding multiattribute value function.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pan Choy whose telephone number is (571)270- 7038. The examiner can normally be reached on Mon-Fri, 8:30AM - 6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Roswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pan Choy/  
Examiner, Art Unit 3624  
June 2, 2010

/Scott L Jarrett/  
Primary Examiner, Art Unit 3624